

## **REMARKS**

1. This Preliminary Amendment is being filed together with a request under 37 C.F.R. § 1.53(d) for a continuation prosecution application based on the ‘676 Application. This Preliminary Amendment is being mailed by Express Mail, Mail Label No. EV 255345324 US addressed to Mail Stop CPA, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on July 15, 2003. The ‘676 Application has been approved and a Notice of Allowance was mailed on April 18, 2003. The date to pay the issue fee is therefore July 18, 2003. Therefore, this continuation application is timely filed pursuant to MPEP 201.11 since the parent case is co-pending. The Applicants have decided that they do not wish to have the allowed claims as allowed in the presently pending case but does wish to have additional new claims which are being submitted through this continuation application.

2. In the parent '67 Application, Claims 5 through 8 are pending. In the Notice of Allowance, the Examiner stated that Claims 5 through 9 were allowed. It is respectfully submitted that this is a mistake since there are only Claims 5 through 8 pending, the new claims of invention in this application begin with Claim 9. Also, pursuant to an amendment filed in the parent case, the correct title for this application should be "APPARATUS FOR GUIDING SUTURES THROUGH A MEMBRANE WALL NEAR THE EDGE REGION OF AN OPENING PROVIDED THEREON". Therefore, the wrong title was set forth on the Notice of Allowance and it is respectfully requested that on the filing receipt for the continuation application, the correct title be set forth.

3. The original '676 parent application and this continuation application claim priority back to PCT Application PCT/DE00/03118 and a German Patent of Addition Application No. 100 53 884.3. With respect to the claims of invention, in the original application there were four pending claims of invention, Claims 5 through 8, which were

allowed but which are not being issued pursuant to the decision not to pay the issue fee.  
1 However, the newly set forth claims correspond to claims which have already been allowed  
2 in the parent cases. Specifically, Claims 9 through 35 have been allowed in the PCT  
3 Application PCT/DE00/03188 and Claims 36 through 45 have been allowed in the German  
4 Patent of Addition No. 100 53 884.3. Therefore, it is respectfully submitted that these claims  
5 should also be allowed in the United States. The claims are substantially the same as those  
6 set forth except redrafted to be in the United States format.

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8       4. In addition, the assignee of the Applicant which is GIP Medizintechnik GmbH  
9 has changed its name to Medi-Globe GmbH. Accompanying this continuation application is  
10 a copy of a German document translated into English setting forth the fact that the  
11 corporation has changed its name from GIP Medizintechnik GmbH to Medi-Globe GmbH.  
12 The original name change document is being submitted under separate cover to the  
13 Assignment Recordation Services department along with a check for \$40.00 to record this  
14 name change. It is respectfully requested that when the patent is issued, the assignee should  
15 be listed under its new name Medi-Globe GmbH.

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17       5. The Applicant has appointed a new attorney to prosecute this application.  
18 Concurrently with the filing of this continuation application, the Applicant submits a new  
19 Power or Attorney appointing Thomas I. Rozsa, Registration No. 29,210 and Tony D. Chen,  
20 Registration No. 36,998, of the Law Firm of Rozsa & Chen LLP to prosecute this  
21 application. In the event the Commissioner for Patents should determine that any fee is due  
22 for properly recording the new Power of Attorney, the Commissioner for Patents is hereby  
23 authorized to charge my Deposit Account No. 18-2222 for the appropriate fee. The Power  
24 of Attorney is by the officer of the assignee Medi-Globe GmbH which is the new name of the  
25 assignee GIP Medizintechnik GmbH as set forth in Paragraph 4 immediately above.

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27       6. Through this Preliminary Amendment, Claims 5 through 8 have been  
28 cancelled and a new series of Claims 9 through 45 of which 2 are independent claims have

1 been added. Therefore, the '676 Application now has 2 independent claims and 37 total  
2 claims. Therefore the filing fee for this continuation application is \$528.00. Since the  
3 application is a continuation of the previous application which was assigned to GIP  
4 Medizintechnik GmbH whose name is now Medi-Globe GmbH, it is believed that no  
5 additional assignment fee is due. Therefore, a check in the amount of \$528.00 is enclosed for  
6 the filing fee for this continuation application for this number of claims. Therefore, it is  
7 believed that no additional fee is due. However, In the event that the Commissioner for  
8 Patents should determine that any additional fee is due, then the Commissioner for Patents is  
9 hereby authorized to charge Deposit Account Number 18-2222 for such appropriate fee.  
10 Also, in the event the Commissioner for Patents should determine that any extension of time  
11 is necessary for this continuation application to be timely filed, then the Commissioner for  
12 Patents is hereby authorized to charge Deposit Account Number 18-2222 for such  
13 appropriate fee.

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Respectfully submitted,

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Date: July 15, 2003

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